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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/778,025	02/17/2004	Wolfgang Schoor	83749-302 RWD	6185
23529	7590	09/22/2005	EXAMINER	
ADE & COMPANY 1700-360 MAIN STREET WINNIPEG, MB R3C3Z3 CANADA			GRANT, ALVIN J	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/778,025

Applicant(s)

SCHOOR, WOLFGANG

Examiner

Alvin J. Grant

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-29 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/17/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. **Claims 11, 18-20 and 14** are objected to because of the following informalities:

Claim 11 refers to a plurality of wedges which does not further limit the claim from which it depends.

Claim 18 refers to a toolkit which does not further limit the claim from which it depends.

Claim 24, line 3, change "open" to read, "opening".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 11, 18-20, 22 and 23** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 refers to a plurality of wedges. It is indefinite as to exactly what is being claimed.

Claim 18 refers to a tool kit that is not included in the scope of claim 6; it is unclear as to whether a hammer is being claimed within a kit or a hammer with a kit.

Claims 22 states that the gripping portion and the end portion are offset at a vertical angle from the main portion *in opposite direction*. It is not clear what is meant. **Claim**

23 states that the gripping portion and the tool head-supporting portion are offset *at a*

lateral angle from the main portion in the same direction. It is not clear what is meant. Vertical and lateral are the same lacking other limitations to define one over the other. When both limitations are in the same claim, they could be interpreted as vertical and horizontal; vertical and lateral; or lateral and horizontal.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-5**, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Dietrich 4,109,339.

Dietrich discloses a hand held tool comprising: a tool head for performing work, a handle including a main portion extending in a longitudinal direction between a gripping portion and a tool head supporting portion opposite the gripping portion, the gripping portion being offset at an inclination in relation to the longitudinal direction of the main portion, and the tool head supporting portion being offset at an inclination in relation to the longitudinal direction of the main portion; the gripping portion and the tool head supporting portion are offset at a lateral angle from the main portion in a same direction (Fig. 5); the gripping portion and the tool head supporting portion are offset at a vertical angle from the main portion in opposite directions; the gripping portion is offset from the main portion of the handle at a compound angle including a lateral angle and a vertical

angle; the tool head supporting portion is offset from the main portion of the handle at a compound angle including a lateral angle and a vertical angle.

6. Claims 6-10 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Myers 5,758,552.

Myers discloses a hammer comprising: an elongate handle having a main portion and an end portion of reduced dimension, a head having a body and an opening formed in the body for snugly receiving the end portion of the handle therein, and fastening means for securing the end portion of the handle therein, and fastening means for securing the end portion of the handle within the opening in the head whereby the head remains selectively separable from the handle; the fastening means comprises a threaded fastener; the opening extends through the body of the head and wherein there is provided a wedge (33) for being snugly received in one end of the opening, the narrow portion of the handle being received in an opposing end of the handle; the wedge includes a through bore receiving the fastening member therethrough; a plate member spanning the end of the opening receiving the wedge therethrough, the fastening means securing the plate member to the handle for clamping the head and wedge member therebetween;

7. Claims 24 and 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kennedy 4,753,137.

Kennedy discloses an elongate handle having a main portion and an end portion of reduced dimension, the handle including an elongate bore extending from an opening at the end portion to a terminal end within the handle, a head having a body and an

opening formed in the body for snugly receiving the end portion of the handle therein, and a tension member received through the bore in the handle and inherently secured under under tension between the terminal end of the bore and the head; the tension member comprises a rigid rod; the tension member is thread ably secured to the terminal end of the bore the head; is secured to the handle by a clamping member threadably secured to the tension member; and the handle is maintained under compression between the terminal end of the bore and the end portion by the tension member.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

>

9. **Claims 15-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers in view of Shepherd Jr. et al.

Myers is described above. **Referring to claim 15**, Myers does not specifically disclose a handle including hafting material surrounding the main portion adjacent the end portion supporting the head thereon. Shepherd Jr. et al. discloses a hammer having a handle which includes reinforcing hafting material surrounding the main portion adjacent the end portion supporting the head so as to improve the durability of the handle when

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subjected to substantial nail pulling loads. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the hammer of Myers to have a handle which includes reinforcing hafting material surrounding the main portion adjacent the end portion supporting the head as taught by Shepherd et al. so as to improve the durability of the handle when subjected to substantial nail pulling loads.

10. Referring to claims 16 and 17, Myers does not specifically disclose claw hammer having a head with a domed fulcrum. Shepherd et al. discloses a claw hammer having a domed fulcrum so as to effectively extract nails. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the hammer of Myers to have a claw with a domed head as taught by Shepherd et al. so as to effectively extract nails.

11. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers in view of Brainerd, 996,235. Myers is described above. Myers does not specifically disclose the end portion of the handle being offset at an inclination in relation to the longitudinal direction of the main portion. Brainerd discloses a hammer wherein the end portion of the handle being offset at an inclination in relation to the longitudinal direction of the main portion so as to provide an unobstructed view of the target. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the handle on Myers's hammer to have the end portion of the handle being offset at an inclination in relation to the longitudinal direction of the main portion as taught by Brainerd, so as to provide an unobstructed view of the target.

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12. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy in view of Beegle 2,067,751.

Kennedy is described above. Kennedy does not specifically disclose that the bore in the handle of the hammer is at least one third the length of the handle. Beegle discloses a hammer having a handle having a bore therein that is at least one third the length of the handle so as enhance the strength characteristics of the handle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the bore of the handle of Kennedy's hammer to be at least one third the length of the handle as taught by Beegle so as to enhance the strength characteristics of the handle.

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myers in view of Glasgow 3,211,198.

Myers is described above. Myers does not specifically disclose fastening means comprising a threaded rod supported on the handle and a threaded nut securing the head between the nut and the handle. Glasgow discloses a hammer in which the hammer head is fastened to the handle by fastening means comprising a threaded rod supported on the handle and a threaded nut securing the head between the nut and the handle so as to ensure a rigid connection. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the hammer of Myers using fastening means comprising a threaded rod supported on the handle and a threaded nut securing the head between the nut and the handle as taught by Glasgow so as to ensure a rigid connection.

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14. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myers in view of Kennedy.

Myers and Kennedy are described above. The modified Myers does not specifically disclose a resilient washer clamped between confronting faces of the first and second threaded members. Kennedy discloses a resilient member clamped between confronting faces of the first and second threaded members so as to cushion the impact of force transmitted from the head through the handle during impact. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the hammer of Myers (as modified) to have a resilient member clamped between confronting faces of the first and second threaded members as taught by Kennedy so as to cushion the impact of force transmitted from the head through the handle during impact.

Allowable Subject Matter

15. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

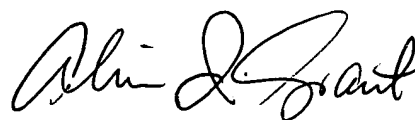
16. The following is a statement of reasons for the indication of allowable subject matter: The art of record does not teach or suggest a compressible member surrounding a rod within the bore that is formed in the handle of a hammer.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J. Grant whose telephone number is (571) 272-4484. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin J Grant
Patent Examiner
Art Unit 3723

ajg